IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.203 OF 2006

Suhasini Deshpande ...Petitioner

Vs.

Rupee Co.op.Bank Ltd. & Ors. ...Respondents

Shri Sanjay Kshirsagar for the Petitioner.

Shri Y.M.Nakhwa, A.P.P for the State.

CORAM : A. S. OKA, J.
DATE : OCTOBER 11, 2006.

P.C.:

1. Heard Shri Kshirsagar for the Petitioner. On Application made by the Petitioner, search warrant under section 94 of the Code of Criminal Procedure, 1973 was issued by the learned Judicial Magistrate. In revision Application filed by the first Respondent-bank, the order issuing search warrant has been set aside.

2. Shri Kshirsagar submitted that the learned Magistrate was justified in issuing search warrant as the Applicant had filed a private complaint alleging commission of offence under section 109, 120-B, 380, 395, 448, 461 read with section 34 of the Indian Penal Code. He submitted that the alleged attached property was taken away by the Recovery Officer of the first

Respondent.

3. After having heard Shri Kshirsagar for the Petitioner and after perusing the impugned order passed by the Sessions Court, I find no error in the view taken by the Sessions Court. The grievance of the Petitioner relates to property which is attached in accordance with the rules framed under the Maharashtra Co-operative Societies Act, 1960. The allegation is that the attached immovable property was taken away by the Recovery Officer.

4. On plain reading of section 94 of the said Code, I find that the warrant could not have been issued by the learned Magistrate. There is no case for interference. Writ Petition is rejected. It is, however, clarified that all contentions of the Petitioner as regards alleged illegal action on the part of the first Respondent are expressly kept open.

JUDGE